



Serial No. 09/330,381

JPW  
2839

PATENT

Attorney Docket No. 219507-00031

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Dale C. MCCARTHY

Serial No. 09/330,381

Filed: June 11, 1999

For: BATTERY TERMINAL

Group Art Unit 2839

Examiner: Khiem M. Nguyen

Confirmation No. 9335

**Customer Number 43138**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

9-3-04

Date

Pamela Kosanovich

Name

9-3-04

Date of Signature

**LETTER ACCOMPANYING THIRD TERMINAL DISCLAIMER**

Sir:

This communication is further to a telephone conference had with Examiner Nguyen on August 30, 2004.

1. The Examiner issued an office action on this case on January 28, 2004, noting an error in the terminal disclaimer which had been previously submitted. This is the last USPTO document which made its way to the physical file in the undersigned's possession.

2. According to notes in the file, attorney Joel Bootzin had a telephone conference on February 10, 2004 with the Examiner, noting that the patent to which the above application (the "Application") should be disclaimed is U.S. Patent No. 5,775,934.

3. The Examiner mailed a corrected office action on February 18, 2004. This corrected office action was refused delivery and returned to the Office. One reason for this might be the Office's apparent mistranscription of the ZIP code for Piper Rudnick's post office box: It was identified to the Office on December 16, 2003 as 60664, but the February 18 action was apparently sent to 60644.

4. Crossing in the mail with this corrected office action was Applicant's Corrected Superseding Terminal Disclaimer to Obviate a Double Patenting Rejection (the "Second Terminal Disclaimer"), by which the patent number of the patent to which the term of any patent issuing on the Application was to be disclaimed was corrected. A copy of that Second Terminal Disclaimer, as including a copy of the return post card showing the USPTO's receipt thereof, is attached hereto as Exhibit A. The Second Terminal Disclaimer was mailed February 11, 2004, and received by OIPE on February 17, 2004.

5. Authority to prosecute this case transferred with the undersigned to the firm of Daspin & Aument, LLP. The undersigned filed a revocation of power of attorney/appointment of new attorneys on August 5, 2004 in confirmation of this change. The undersigned has at all times been an attorney of record in the Pending Application.

6. The undersigned's inspection of the PAIR database on August 30, 2004 revealed the Examiner's corrected Office Action of February 18, 2004, but did not show that any further action had been taken on the Second Terminal Disclaimer.

7. In a telephone conference had with the Examiner on August 30, 2004, the Examiner identified an error in the recitation of the number of the application leading to


Serial No. 09/330,381

the issuance of U.S. Patent 5,775,934 (the "'934 Patent") in the Second Terminal Disclaimer. The undersigned, through the submission of the new, Third Terminal Disclaimer, omits as irrelevant the (incorrect) details of the application from which the '934 Patent issued, and corrects the issue date of the '934 Patent. The undersigned notes that the application on which the '934 Patent issued (Serial Number 647,735 filed May 15, 1996) is not related in continuity to the Pending Application.

7. The undersigned believes the enclosed Third Terminal Disclaimer now correctly meets the Examiner's obviousness-type double patenting rejection based on the '934 Patent. The case otherwise being in condition for allowance, Applicant now awaits the issuance of a Notice of Allowance.

8. A check in the amount of \$110.00 is enclosed under cover of a fee transmittal to cover the fee for filing the Third Terminal Disclaimer. The Director is hereby authorized to deduct any deficiency or credit any overpayment to Deposit Account No. 503138 of Daspin & Aument, LLP.

Respectfully submitted,

  
\_\_\_\_\_  
Jefferson Perkins  
Registration No. 31,407

Daspin & Aument, LLP  
210 W. 22<sup>nd</sup> Street, Suite 102  
Oak Brook, IL 60523  
September 1, 2004

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Dale C. McCarthy  
Serial No.: 09/330,381  
Filed: June 11, 1999  
Art Unit: 2839  
Examiner: Khiem M. Nguyen  
Confirmation No.: 9335  
For: BATTERY TERMINAL  
Attorney Docket No.: 219507-000031

Enclosures:

1. CORRECTED SUPERCEDING TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION (37 CFR 1.321(b)) (3 pages) and duplicate copy thereof
2. Return Receipt Postcard

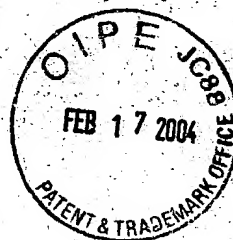
Mailed via First Class Mail on February 11, 2004 JHB/ca

ENTERED

2004

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Serial No.: 09/330,381

Filed: June 11, 1999

Art Unit: 2839

Examiner: Khiem M. Nguyen

Confirmation No.: 9335

For: BATTERY TERMINAL

CUSTOMER NO. 28465

Commissioner for Patents  
P.O. 1450  
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on

February 11, 2004

Date

*Carol Aleman*  
Signature

February 11, 2004

Date of Signature

**CORRECTED SUPERCEDING TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION (37 CFR 1.321(b))**

Sir:

In response to the Office Action of January 28, 2004, I, Joel Bootzin, declare as follows:

1. I am an attorney of record for the assignee, Centerpin Technology, Inc., who remains the owner of U.S. Application Serial No. 09/330,381 filed June 11, 1999, for BATTERY TERMINAL (the "Pending Application").

2. The Pending Application is a continuation-in-part of U.S. Patent Application Serial No. 08/999,356 filed December 29, 1997, now U.S. Patent No. 5,775,934.

3. The assignee continues to be the sole owner of U.S. Patent No. 5,775,934 issued May 26, 1998.

4. The applicant disclaims the terminal part of any patent granted on Application Serial No. 09/330,381 filed June 11, 1999 which would extend beyond the expiration date of the full statutory term as defined by 35 USC 154 through 156 and 173, as presently shortened by any previously filed terminal disclaimer, of U.S. Patent No. 5,775,934.

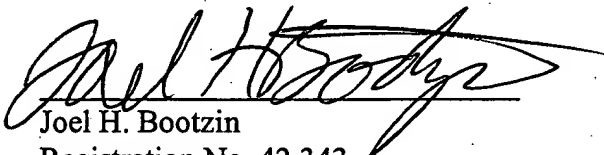
5. The applicant agrees that any patent so granted on the Pending Application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 5,775,934, this agreement to run with any patent granted on the pending application first identified above and to be binding upon the assigns.

6. The applicant does not disclaim any terminal part of any patent granted on the Pending Application prior to the expiration of the full statutory term of U.S. Patent No. 5,775,934, in the event that such patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims canceled by reexamination certificate, or is otherwise terminated prior to expiration of its statutory term as presently shortened by any other terminal disclaimer, except for the separation of legal title stated above.

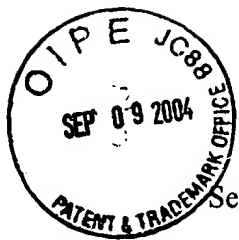
7. The Director of the United States Patent and Trademark Office is hereby authorized to deduct \$110.00 from Deposit Account No. 18-2284 to cover the fee for filing a Terminal Disclaimer under 37 CFR 1.120(d).

The Director of the United States Patent and Trademark Office is also hereby authorized to deduct any deficiency or credit any overpayment to Deposit Account No. 18-2284 of Piper Rudnick. A duplicate is provided herewith.

Respectfully submitted,

  
Joel H. Bootzin  
Registration No. 42,343

PIPER RUDNICK  
P.O. Box 64807  
Chicago, IL 60664-0807  
February 11, 2004



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9-3-04

Date

Pamela Kozanich

Name

9-3-04

Date of Signature

Customer Number 43138

**THIRD TERMINAL DISCLAIMER**

Sir:

I, Jefferson Perkins, declare as follows:

1. I am the attorney of record for Centerpin Technology, Inc., which is the Assignee of Application Serial No. 09/330,381 filed June 11, 1999, for BATTERY TERMINAL (the "Pending Application").

2. The Assignee is also the sole owner of U.S. Patent No. 5,775,934 issued July 7, 1998 (the "'934 Patent").


3. The Assignee disclaims the terminal part of any patent granted on the Pending Application which would extend beyond the expiration date of the full statutory term as defined by 35 USC §§154 through 156 and 173, as presently shortened by any previously filed terminal disclaimer, of the '934 Patent.

4. The Assignee agrees that any patent so granted on the Pending Application shall be enforceable only for and during such period that it and the '934 Patent are commonly owned, this agreement to run with any patent granted on the Pending Application and to be binding upon the grantee, its successors or assigns.

5. The Assignee does not disclaim any terminal part of any patent granted on the Pending Application prior to the expiration of the full statutory term, as defined in 35 U.S.C. §§ 154 and 173, of the '934 Patent, in the event that the '934 Patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its statutory term as presently shortened by any terminal disclaimer.

6. A check in the amount of \$110.00 is enclosed to cover the fee for filing a Terminal Disclaimer. The Director is hereby authorized to deduct any deficiency or credit any overpayment to Deposit Account No. 503138 of Daspin & Aument, LLP.

Respectfully submitted,

  
\_\_\_\_\_  
Jefferson Perkins  
Registration No. 31,407

Daspin & Aument, LLP  
210 W. 22<sup>nd</sup> Street, Suite 102  
Oak Brook, IL 60523

September 2, 2004